

EXHIBIT D

Andrew Bleiman

From: John Whitaker <John.Whitaker@cojk.com>
Sent: Thursday, October 04, 2018 12:40 PM
To: Andrew Bleiman; Kendrick, Tyler; Wesner, Gregory
Cc: Ann Jones; Steve Leatham; Milner, Kathi
Subject: RE: Production of Syked Eliminator Cable

Andrew,

I don't have the transcript. And I didn't agree to produce one. If I had, you would have simply quoted the language. Your failure to do so once again reveals the falsity of your claim.

The Eliminator Cable is not a part of this case. If HP Tuners wants it to be, then move for leave to amend.

Regards,

John

From: Andrew Bleiman [mailto:andrew@marksklein.com]
Sent: Thursday, October 04, 2018 10:33 AM
To: John Whitaker; Kendrick, Tyler; Wesner, Gregory
Cc: Ann Jones; Steve Leatham; Milner, Kathi
Subject: RE: Production of Syked Eliminator Cable

John:

See pages 33-34 of the transcript. The Syked Eliminator Cable is an issue in this case and your contentions to the contrary are not well founded. Our claims relate to Defendants' possession, use and misappropriation of HPT's confidential and proprietary intellectual property. One of the ways in which our IP has been misappropriated relates to its inclusion in the Syked Eliminator Cable.

Regards,

Andrew P. Bleiman, Esq.
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From: John Whitaker <John.Whitaker@cojk.com>
Sent: Thursday, October 04, 2018 12:29 PM
To: Andrew Bleiman <andrew@marksklein.com>; Kendrick, Tyler <KendrickT@LanePowell.com>; Wesner, Gregory <WesnerG@LanePowell.com>

Cc: Ann Jones <Ann@hpl-law.com>; Steve Leatham <sgl@hpl-law.com>; Milner, Kathi <MilnerK@LanePowell.com>
Subject: RE: Production of Syked Eliminator Cable

Andrew,

If I agreed to produce the Eliminator Cable at the hearing, then show me the transcript. Your statement is false. We agreed to return **HPT cables**, if Syked had any in its possession. We did **not agree** to produce the Eliminator Cable. Indeed, I don't believe doing so was even discussed. And as you just acknowledged, even if HP Tuners requested one in connection with the TRO briefing, the Judge **denied that request**.

Once again, if HP Tuners wants the Eliminator Cable relevant to any issue in this case, then move for leave to amend. You have been on notice of the cable for months yet you have failed to do so. You have no one to blame but yourself.

Regards,

John

From: Andrew Bleiman [mailto:andrew@marksklein.com]
Sent: Thursday, October 04, 2018 10:13 AM
To: John Whitaker; Kendrick, Tyler; Wesner, Gregory
Cc: Ann Jones; Steve Leatham; Milner, Kathi
Subject: RE: Production of Syked Eliminator Cable

John:

Once again, you are incorrect. The request was made in the form of requested relief in connection with the Renewed Emergency Motion for Protective Order. While the judge denied to order that relief, we articulated the request for production at the hearing, the court considered it a discovery issue and you agreed to produce it in connection with the hearing. Moreover, your client explicitly agreed to provide it and advised that he had not objection to providing one at his deposition. Consequently, your objection is not well founded and we will address the issue with the court. Is it similarly your position that we are not obligated to provide the information which was discussed at the hearing in connection with your motion because you have failed to follow it up with a formal discovery request?

Regards,

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From: John Whitaker <John.Whitaker@cojk.com>
Sent: Thursday, October 04, 2018 12:02 PM

To: Andrew Bleiman <andrew@marksklein.com>; Kendrick, Tyler <KendrickT@LanePowell.com>; Wesner, Gregory <WesnerG@LanePowell.com>

Cc: Ann Jones <Ann@hpl-law.com>; Steve Leatham <sgl@hpl-law.com>; Milner, Kathi <MilnerK@LanePowell.com>

Subject: RE: Production of Syked Eliminator Cable

Hello Andrew,

I hate to jump in but the portion of my testimony you quoted is : "No, your Honor, with the understanding that normal discovery rules apply." The normal discovery requests require a written discovery request. You haven't served one. And even if you had, Syked would have 30 days to respond or object. Since you never served a request, we never had an opportunity to object. So consider this our objection.

Your request that Syked Tuning send you an Eliminator Cable is objectionable for at least the reason that HP Tuners has never alleged any wrongdoing with respect to the Eliminator Cable and it is therefore irrelevant to any of the issues that are in this case. You and I specifically discussed this months ago and I notified you that if you want the Eliminator Cable in this case, then move the Court for leave to amend HP Tuners' complaint and add it. You failed to do so for, now, several months. Your dilatory litigation tactics have once again failed you. I will let you explain to Judge Settle how you could not be bothered even to serve a single discovery request asking for the Eliminator Cable.

All that said, and subject to that objection, **Syked Tuning will make one Eliminator Cable available for inspection by HP Tuners' designated expert at a mutually agreeable time.** Please just forward to us an executed copy of the undertaking for the protective order. Accordingly, despite your failure even to serve a discovery request, Syked Tuning has now produced the Eliminator Cable. Once again, if you cannot make the deadline for expert disclosures, HP Tuners has no one to blame but you.

Please let us know if you have any questions.

Regards,

John

From: Andrew Bleiman [<mailto:andrew@marksklein.com>]

Sent: Thursday, October 04, 2018 9:47 AM

To: Kendrick, Tyler; Wesner, Gregory; John Whitaker

Cc: Ann Jones; Steve Leatham; Milner, Kathi

Subject: RE: Production of Syked Eliminator Cable

Importance: High

Tyler:

It was requested in connection with the hearing on the Renewed Emergency Motion for Temporary Restraining Order. (See pages 33-34 of the transcript). The Court stated "That seems like a discovery issue. Is there any problem with that?" Mr. Whitaker responded: "No, your Honor, with the understanding that normal discovery rules apply." Subsequently, Mr. Sykes-Bonnett also specifically testified at his deposition at pages 109-110 that he would provide us with a cable. Are Defendants now taking the position now that they are not going to provide it despite Mr. Whitaker's statements to Judge Settle and Mr. Sykes-Bonnett's agreement to provide the cable? This gamesmanship is improper.

Please advise immediately.

Regards,

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From: Kendrick, Tyler <KendrickT@LanePowell.com>
Sent: Thursday, October 04, 2018 11:41 AM
To: Andrew Bleiman <andrew@markslein.com>; Wesner, Gregory <WesnerG@LanePowell.com>; John Whitaker <John.Whitaker@cojk.com>
Cc: Ann Jones <Ann@hpl-law.com>; Steve Leatham <sgl@hpl-law.com>; Milner, Kathi <MilnerK@LanePowell.com>
Subject: RE: Production of Syked Eliminator Cable

Andrew,

I do not see a discovery request from HPT for the Syked Eliminator Cable so we are not under an obligation to overnight it to you. Also, as you know John Whitaker is no longer at Lane Powell so you can delete that email address. Please use john.whitaker@cojk.com going forward (cc'd here).

Thanks,

Tyler



LANE POWELL

TYLER KENDRICK

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From: Andrew Bleiman <andrew@markslein.com>

Sent: Thursday, October 4, 2018 9:23 AM

To: Kendrick, Tyler <KendrickT@LanePowell.com>; Wesner, Gregory <WesnerG@LanePowell.com>

Cc: Whitaker, John <WhitakerJ@LanePowell.com>; Ann Jones <Ann@hpl-law.com>; Steve Leatham <sgl@hpl-law.com>; Milner, Kathi <MilnerK@LanePowell.com>

Subject: Production of Syked Eliminator Cable

Importance: High

Tyler:

We still have not received the Syked Eliminator Cable. We need this immediately given the upcoming expert disclosure deadline. Please confirm that this will be shipped for overnight delivery to my office no later than Monday.

Regards,

Andrew P. Bleiman

Andrew P. Bleiman, Esq.

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